

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 1:15CR70
(Judge Keeley)

MIRANDA D. SWIGER,

Defendant.

ORDER ACCEPTING AND ADOPTING MAGISTRATE JUDGE'S
REPORT RECOMMENDATION CONCERNING PLEA OF GUILTY IN
FELONY CASE (DKT. NO. 85) AND SCHEDULING SENTENCING HEARING

On November 2, 2015, the defendant, Miranda D. Swiger ("Swiger"), appeared before United States Magistrate Judge Aloï and moved for permission to enter a plea of GUILTY to Count Four of the Indictment. After Swiger stated that she understood that the magistrate judge is not a United States District Judge, she consented to tendering her plea before the magistrate judge. Previously, this Court had referred the guilty plea to the magistrate judge for the purposes of administering the allocution pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted.

Based upon Swiger's statements during the plea hearing and the testimony of Detective Mark Rogers, the magistrate judge found that Swiger was competent to enter a plea, that the plea was freely and voluntarily given, that she was aware of the nature of the charges

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against her and the consequences of her plea, and that a factual basis existed for the tendered plea. On November 2, 2015, the magistrate judge entered an Report and Recommendation Concerning Plea of Guilty in Felony Case ("R&R") (dkt. no. 85) finding a factual basis for the plea and recommending that this Court accept Swiger's plea of guilty to Count Four of the Indictment.

He also directed the parties to file any written objections to the R&R within fourteen (14) days after service of the R&R. The magistrate judge further directed that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the R&R. The parties did not file any objections to the R&R.

Accordingly, this Court **ADOPTS** the magistrate judge's R&R, **ACCEPTS** Swiger's guilty plea, and **ADJUGES** her **GUILTY** of the crime charged in Count Four of the Indictment.

Pursuant to Fed. R. Crim. P. 11(e)(2) and U.S.S.G. § 6B1.1(c), the Court **DEFERS** acceptance of the proposed plea agreement until it has received and reviewed the presentence report prepared in this matter.

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Pursuant to U.S.S.G. § 6A1 et seq., the Court **ORDERS** as follows:

1. The Probation Officer shall undertake a presentence investigation of **MIRANDA D. SWIGER**, and prepare a presentence report for the Court;

2. The Government and Swiger are to provide their versions of the offense to the probation officer by **November 30, 2015**;

3. The presentence report is to be disclosed to Swiger, defense counsel, and the United States on or before **January 15, 2016**; however, the Probation Officer is not to disclose the sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e)(3);

4. Counsel may file written objections to the presentence report on or before **January 29, 2016**;

5. The Office of Probation shall submit the presentence report with addendum to the Court on or before **February 12, 2016**; and

6. Counsel may file any written sentencing statements and motions for departure from the Sentencing Guidelines, including the

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factual basis from the statements or motions, on or before **February 26, 2016.**

The magistrate judge continued Swiger on bond pursuant to an Order Setting Conditions of Release (dkt. no. 30) entered on July 30, 2015 and amended on August 20, 2015 (dkt. no. 42).

The Court will conduct the sentencing hearing for the defendant on **Tuesday, March 8, 2016 at 11:30 A.M.** at the **Clarksburg, West Virginia** point of holding court.

It is so **ORDERED.**

The Clerk is directed to transmit copies of this Order to counsel of record, the defendant and all appropriate agencies.

DATED: November 16, 2015

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE